

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

MELISSA R. YATES,	)	
	)	
Plaintiff	)	
	)	
v.	)	Civil Action No. <u>7:20cv563</u>
	)	
CIGNA LIFE INSURANCE COMPANY OF	)	
NEW YORK,	)	
	)	
Defendant.	)	

**NOTICE OF REMOVAL**

Defendant Cigna Life Insurance Company of New York (“Defendant”), by counsel, pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, hereby removes this action from the Circuit Court for the City of Roanoke, Virginia, to the United States District Court for the Western District of Virginia, Roanoke Division, and in support thereof state as follows:

1. Defendant is, and at all times has been, a New York corporation with its principal place of business in Philadelphia, Pennsylvania.
2. Upon information and belief, Melissa R. Yates (“Plaintiff”) is a resident of Virginia.
3. Jurisdiction is vested in this Court pursuant to 28 U.S.C. §§ 1331 and 1441, and the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1001 *et seq.*
4. This civil action commenced in the Circuit Court for the City of Roanoke, Virginia on or about August 7, 2020, with the filing of a Complaint styled as *Melissa R. Yates v. Cigna Life Insurance Company of New York*, Case No. CL20001706-00.
5. As set forth in the Complaint, Plaintiff seeks redress for the alleged wrongful denial of disability benefits under her employer’s benefit plan and expressly invokes the civil

enforcement provisions of ERISA, 29 U.S.C. § 1132. The benefit plan is governed by ERISA, which Plaintiff concedes on the face of the Complaint.

6. The controversy between Plaintiff and Defendant involves a federal question over which this Court has original jurisdiction. Plaintiff's claim arises out of, and she seeks benefits under, an employee welfare benefit plan that is governed exclusively by ERISA, 29 U.S.C. §§ 1001 *et seq.* Plaintiff's claim is completely preempted by ERISA because her claim "relates to" an employee welfare benefit plan, and her remedy, if any, lies exclusively within the civil enforcement scheme of ERISA. *See, e.g., Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 107 S. Ct. 1549 (1987); *Metro. Life Ins. Co. v. Taylor*, 481 U.S. 58, 107 S. Ct. 1542 (1987).

7. This Court has original jurisdiction over the instant matter pursuant to the provisions of 28 U.S.C. § 1331 and ERISA, 29 U.S.C. §§ 1001 *et seq.* To the extent Plaintiff has attempted to bring this claim under state law, Plaintiff's claim is completely preempted by ERISA and is necessarily federal in character. This matter is therefore removable to federal court. *See, e.g., Metro. Life Ins. Co. v. Taylor*, 481 U.S. 58, 107 S. Ct. 1542 (1987) (claim related to employee benefit plan is preempted by ERISA and is removable pursuant to § 1441).

8. Defendant was formally served with a copy of the Complaint on August 21, 2020. This Notice of Removal has been filed within 30 days after Defendant was served with this action and is thus timely.

9. Attached hereto, and made a part hereof, are copies of all process and pleadings served upon or provided to Defendant or filed in the state court case. *See* **Exhibit A**.

10. A Notice of Filing of Notice of Removal is being filed contemporaneously with the Clerk of the Circuit Court for the City of Roanoke, Virginia. Defendant will also promptly give Plaintiff written notice of the filing of this Notice of Removal.

WHEREFORE, Defendant Cigna Life Insurance Company of New York hereby requests that this action be removed to this Court.

CIGNA LIFE INSURANCE COMPANY  
OF NEW YORK

By: /s/ David E. Constine, III  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 18th day of September 2020 a true and accurate copy of the foregoing documents was filed electronically with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

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CIGNA LIFE INSURANCE COMPANY  
OF NEW YORK

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